

ACCUSED NO 11 (SEKWATI JOHN MOKOENA)

The allegations against accused No 11 in the indictment amplified by further particulars are that he was the secretary of the Boipatong Area Committee of the VCA constituted on 15 August 1984 at his house, where it was decided to hold a mass protest meeting on 26 August. He attended a meeting of this committee on 22 August 1984 where he reported back on his arrangements for the mass meeting. Pamphlets were distributed. On 26 August 1984 accused No 11 chaired the protest meeting where the speakers incited the audience to participate in riots. Resolutions were passed and the ANC was popularised by freedom songs and slogans. On 3 September 1984 activists of the Boipatong VCA committee namely accused No 11, Mohapi and Sotso came to the square to lead the masses. Accused No 11 had made placards which he hid from the police. A police vehicle was attacked and thereafter the houses of councillor Mpondo and councillor Nzunga. After the mob properly got going the three activists withdrew. It is further alleged that accused No 11 was part of the management structure of the VCA which was affiliated to the UDF and thereby it became part of the UDF Transvaal and participated in its meetings, planning and organisation. He identified with the aims of the UDF to overthrow or endanger the government by violent means by co-operating with the UDF and as a member of a body affiliated to the UDF which actively co-operated in the Vaal Triangle against the government and Black local authority to destroy the latter. These are the allegations against accused No 11.

Accused No 11 is in his 30's and lives in Boipatong. He has a number of grievances. His father changed his name in order to acquire legal residence in the Vaal. Accused No 11 could not complete his schooling for lack of funds. He had problems finding work and was retrenched in October 1983. Apart from temporary employment for two months he was unemployed till arrested.

After losing his employment he was introduced by Johnny Motete, secretary of the VCA, to the Bophelong Youth Association which organised study assistance, plays for youths and held discussions on the issues in their residential area.

As the youth of Boipatong was not well-behaved and mostly unemployed he formed the idea of starting a youth organisation. By youth he means persons from 18 to 30 years of age. Scholars would be welcome but the emphasis would be on the unemployed non-scholars. Accused No 11 and Ace Blaai, a youth who was well-known in the area, called a meeting. They had in mind by this organisation to introduce sports and discussion of residents' problems. The meeting was held in the first week of January 1984. An interim committee of the Boipatong Youth Organisation was formed. Accused No 11 was chairman.

On 14 and 15 January 1984 accused No 11 attended the Wilgespruit seminar, a conference of youth organisations. The type of discussion is evident from his notes (exh AT.7) and from the fact that Dan Montsitsi spoke on the role of youth in the liberation struggle. We have examples of his revolutionary speeches in exhs V.4, V.10 and V.25. He was the chairman of the Soweto Students' Representative Council during the Soweto uprisings and regarded as a leader of the resistance. Exh AU.8 p.6. Accused No 11 gave false evidence about this seminar. We refer to annexure Z in this respect. The seminar was on how to organise and mobilise the youth. A COSAS steering-committee reported. Youths had to be transformed into democratic youths, that is adherents of the Freedom Charter. A funeral brigade committee and a SOYCO cultural day were discussed but accused No 11 could give no sensible explanation. The harassment of the youth by the system and Bantustans were also under discussion.

Accused No 11 was there appointed to a group of six to set up a seminar at Lenz for 5 February 1984 in order to form a regional structure and discuss burning issues. Exh AT.7(a). This group met at Khotso House on 18 January 1984 and drafted points for discussion at the seminar. Exh AT.9. Thereafter they went to the UDF offices.

The interim committee of BOYO met on 21 January 1984 and drafted a programme for the launch. Exh AT.10. On education Curtis Nkondo, Sotsu a UDF speaker, V Thafeni, who had attended the Wilgespruit seminar, as a student speaker and accused No 11 on the formation of

SRC's, were on the programme. There was also a COSAS speaker. This is hardly a programme for a youth group of non-scholars. Accused No 11 gave a false explanation. We refer to annexure Z.

Accused No 11 convened a joint meeting on 7 February 1984 at his home of the organisations Bophelong Youth Organisation, Bophelong Civic Association, Boipatong Youth Organisation and Boipatong Civic Association. Vuyisile Thafeni and Mosioa who attended for the Bophelong Youth Organisation had been at the Wilgespruit seminar. Sotsu attended on behalf of the Boipatong Civic Association and Veronica Mbongo on behalf of the Bophelong Civic Association. There were others. We mention these names as some of them appear as speakers on 26 August 1984 and to indicate the interrelationship between these organisations.

The organisations formed the Vanderbijlpark Joint Committee which would meet on matters of common interest. A harsh letter was written to the school principal about dismissal of scholars and so-called victimisation of Vuyisile (alias Vicks) Thafeni. They threatened drastic action should the students not be reinstated and should the school not be run by the principal in conjunction with their committee in accordance with the wishes of parents and students alike. What cheek!

In April 1984 accused No 11 obtained UDF million signature campaign signature forms and sought signatories.

In May 1984 accused No 11 called a meeting of the Joint Committee and thereafter in its name wrote a letter to the Development Board (exh. AN.10) calling the prohibition of political meetings in churches an unjust, arrogant, racist and unchristian attitude on the part of the Vaal Administration Board which deliberate provocation cannot be tolerated any longer by the community at large. We reject as false the evidence of accused No 11 that the Joint Committee ceased to exist thereafter. Our reasons are set out in annexure Z.

At the end of July 1984, says accused No 11, Sotsu of the Boipatong Civic Association told him of the rent increase. Sotsu told him the latter organisation no longer existed. They decided to call a meeting for 15 August 1984.

On 9 August 1984 accused No 11 told Mohapi about this meeting. Mohapi says he was told that the instruction had come from a meeting in Sharpeville where it was said that a Boipatong committee should be formed. Accused No 11 denies it. We make no finding in this respect.

The Boipatong Residents' Committee was formed on 15 August 1984 and accused No 11 became its secretary and pivot. He obtained pamphlets for the mass meeting of 26 August 1984. He booked the church. He chaired the mass meeting. He arranged for the speakers contrary to what his committee had decided.

The meeting of 26 August 1984 was advertised by an Asinamali pamphlet of the VCA calling on parents, residents, workers and children to meet against the unjust action of the councillors in increasing the rent. Exhs AT.5 and AN.16. The pamphlets were supplied by Esau Raditsela.

The meeting of 26 August 1984 was chaired by accused No 11 and was opened with scripture reading of the well-worn Lamentations of Jeremiah 5 verses 1 to 7 and with a prayer for 41 detained UDF leaders and against forced removals. None of these matters had any relevance to the rent issue. It was a political meeting in the usual UDF pattern. On the agenda were as speakers a VCA representative, a student representative and a women representative. Exh AT.6.

The meeting had been advertised as a meeting of parents, residents, workers and children (exh AT.5) and its resolutions were later announced by notice as the resolutions of those groups. Exh AT.12. These resolutions were: No children or worker must go to school or work on Monday 3 September 1984. All councillors must resign at-once because they bring only poverty, difficulties and grievances. All businesses must be closed for 24 hours. This notice drawn by Esau Raditsela and distributed by accused No 11 was incomplete. The meeting had also decided: "We do not pay the rent" and "Confront the local town councils to resign pronto". Exh AT.6.

The last-mentioned involved a march to Houtkop on 3 September. It was to start at the square in Boipatong at 8h00. After the resolutions were passed Esau Raditsela stated that the VCA would write letters to the bus company and taxi's informing them of the stay-away. This was done. Exh-AT.11. A committee was elected.

We have sketched the facts which are either common cause about this meeting or are documented. There was a difference between state witness Mohapi and accused No 11. Mohapi testified that Sotsu proposed that the increased rent not be paid till they had met with the councillors at Houtkop and attacked councillor Mpondo about school uniforms. Sotsu then left for another meeting at Bophelong. Accused No 11 supported Sotsu and added that if councillors did not listen to reason their businesses should be boycotted and they should resign. Mohapi then spoke in support of non-payment of rent till a meeting with councillors had been held at Houtkop. Thereafter Esau Raditsela said that he had not heard anything yet of a stay-away. At a meeting in Sebokeng from which he had come they had decided on a stay-away. They should not go to work on 3 September. They had written letters to the bus and taxi operators not to work and the shops would be closed. On 3 September they would march to Houtkop to meet the councillors to discuss the rent increase. The audience agreed by giving the black power salute. Thereafter Edith Letlaka spoke on a stay-away and the Vaal Organisation of Women. The resolutions were thereafter passed. Edith Letlaka proposed that

there should be no transport. Freedom songs were sung at the meeting. One about Oliver Tambo.

In cross-examination Mohapi was only challenged on one material aspect. ~~it was put that Edith Letlaka had proposed the stay-away and~~ that Esau Raditsela had only spoken right at the end of the meeting. The latter portion of this statement Mohapi denied. When accused No 11 came to testify the defence changed its version, in an attempt to dissociate the resolutions at Boipatong as much as possible from those at Small Farms, it seems. We heard only then that Spokes Mbele had proposed a protest march and that the freedom songs were sung after closure of the meeting. There were no resolutions on boycotts.

Ngwenya, defence witness, was so vague on the meeting that his evidence is of no help. Defence witness Nonyana was not frank with the court and gave a rather garbled version of the meeting.

We need not make a finding on the exact details of this meeting. What is clear is that Esau Raditsela and Edith Letlaka as leaders of the VCA were prominent speakers and that the proposal for the stay-away and march on 3 September emanated from them. The resolutions in Boipatong were part of the VCA co-ordinated action in the Vaal. In that action accused No 11 played a major role.



Although accused No 11 was a supporter of the UDF and had close contact with Sotsu who was likeminded, there is no evidence that he attended UDF general council meetings or intended to act in furtherance of a UDF campaign against Black local authorities by mass action in order to make the Republic of South Africa ungovernable and cause the overthrow or endangerment of the government. The state has not proved its case of treason against accused No 11.

For the state to succeed against accused No 11 on the alternative charge it has to prove that he was part of the leadership of the VCA that planned and executed the stay-away and march in Boipatong and that he foresaw that the stay-away to be effective would have to be enforced by coercion and that the march would lead to violent confrontation with the police.

Accused No 11 is no political babe in the woods. He is an astute activist. There is no doubt that he would have known the history of the Soweto uprisings and the other facts we set out when we dealt with the knowledge of the leadership of the VCA. He knew that the stay-away would be ineffective should transport operate normally. He notified the transport operators that residents of the Vaal Triangle requested them to withdraw their transport service on 3 September 1984 for 24 hours. He is a recognised youth leader in Boipatong which is a small township. If this request to the transport operators was enforced and he did not do so himself he

would know who organised it. It is therefore important to determine the facts.

The state witnesses testified as follows: Mohapi said that he saw road-obstructions only in the afternoon of 3 September. It was near his home. That morning he had crossed the length and breadth of Boipatong. We infer that he had not seen any. Brigadier Viljoen testified that in the evening of 2 September it was reported to him that road obstructions had been erected in Boipatong. On 3 September after 9h00 reports reached him from Boipatong of attacks by mobs. Schlebush stated that just after midnight he saw a road obstruction consisting of tyres, rocks, drums, etc in Boipatong on the road to the liquor store. It was not on a bus route. He did not patrol Boipatong. He just drove by the shortest route to the liquor store and the administrative offices. (As in the case of Sharpeville the barricading of the road to the liquor outlet was the prelude to a later attack thereon. This indicates a predetermined plan of action.) Warrant officer Terblanche arrived at 6h10 on 3 September in Boipatong and started patrolling. He found that 80% of the roads were obstructed with dust-bins, rocks and road-signs. He found that whereas otherwise people would be friendly and would greet him, on this morning they ignored him totally. He got the impression that they were afraid. This evidence was not challenged. Sechabela, a bus driver, arrived in Boipatong at approximately 7h00 near the community hall. There were more people than normal. His bus was

attacked with stones along much of the road out of the township. His route was clear of obstructions. His bus was damaged to such an extent that he had to cease operating. (In Boipatong the situation was somewhat different from the other townships. The workers (with the exception of some domestics) were not dependent on bus transport to their work. There was no bus transport to the industrial area. This might explain the lack of obstructions on his route.)

These are the state witnesses. Apart from Mohapi they were good witnesses. They did not attempt to embellish the state case and there was no reason advanced to reject their evidence. The defence did not contend this but submitted that as Mohapi did not notice the obstructions accused No 11 cannot be disbelieved when he says he did not notice them. Two observations are necessary. Mohapi was part of a marauding mob when they criss-crossed Boipatong and might have missed such detail. Accused No 11 went further than counsel's argument however. He testified that there were no obstructions in the roads of Boipatong on the morning of 3 September and that he told his counsel that. We reject this evidence as false. He was generally a wholly untrustworthy witness. The witnesses Ngwenya and Nonyana on whom the defence relies take the matter no further. Ngwenya can testify only about some 60 yards of Lekoá Street. Nonyana was not frank with the court and his evidence only covers a section of Mzimvubu Street.

We find proved that in Boipatong numerous obstructions were erected in the streets on an organised basis during the early hours of 3 September 1984. This was done in preparation for the clashes with the police which would inevitably follow upon the planned attacks on buses, buildings of the Development Board and the property of councillors.

We find that accused No 11 by reason of his position in Boipatong and its organisations is aware who organised the barricades and riots. He did not point out the culprits as could be expected had he been innocent. Everything points to his involvement therewith.

The defence relied on the evidence of accused No 11, supported by what he reported to Mohapi, that at 7h15 on 3 September on his way to the square where he was to assemble the march, while he was handing placards to a group of approximately ten and discussing their participation in the march with them, two police land-rovers stopped and that they were thereafter forcibly dispersed with sjamboks by the police.

When seen in perspective this was not strange. Shortly before a bus had been attacked nearby and heavily damaged. Open-air gatherings were illegal. The police had to act.

Despite this event accused No 11 proceeded to the square and commenced preparations for the march, again holding an illegal open-air gathering. We have no doubt that he knew about the prohibition and knew that confrontation with the police was inevitable. We have no finding in respect.

The evidence of Mohapi is that after the mob had attacked a police vehicle at the square, which sped off, the mob ran to councillor Mpondo's house and attacked it. Accused No 11, Mohapi and Sotsu went along as onlookers. Thereafter they followed the mob back to the square, to the beerhall, which was attacked and a section split off and proceeded to councillor Nzunga's house which was attacked with stones and set alight with petrol as were his vehicles. Thereafter councillor Nzunga's shop was attacked. It was not set alight as the mob did not want to burn down adjacent stores not belonging to councillors. It was merely looted. Accused No 11, Mohapi and Sotsu accompanied the mob. At this stage police action dispersed them. Mohapi lost contact with the other two. During cross-examination Mohapi said that their purpose had been to supervise the mob. This expression is somewhat ambiguous and we deal with it later.

Accused No 11 testified that they had followed the mob to councillor Mpondo's house but that they were there separated and that he went home.

Mohapi's evidence is corroborated by defence witness Nonyana who says that at the square he saw the three of them return together from councillor Mpondo's house. Accused No 11 was a bad witness.

Mohapi's evidence had a number of unsatisfactory features and he is an accomplice. We make no finding in this respect.

The defence relied heavily on certain concessions Mohapi made in cross-examination. They were that the committee intended that the march on 3 September would be an orderly and peaceful one and that the committee had no intention that the property of anybody would be destroyed. It never occurred to them that there would be destruction of property or that a violent act would be committed. He did not, however, give evidence that the committee had discussed this aspect and the answers were left somewhat in the air. There are, however, a number of strange features in this evidence. The organisers of a peaceful march run after a violent mob which has just attacked the police, which mob is clearly bent on mischief and moves in the direction of councillor Mpondo's house. The witness did not state that they went out of mere curiosity. He said: "The reason why we had to run after them and follow the direction they were taking was because of the pre-arrangement amongst ourselves that seeing that we can no longer control this crowd the people are doing their own things, we must at least follow them and supervise what they are doing. That was the purpose why we had to run after them."

(40/1869). Despite the fact that Boipatong is a small community he

could not say if the stone-throwers were from Boipatong or from elsewhere. He later testified that they followed in order to get the mob back to form a march. But none of the three made any attempt to do so. He alleged it was from lack of opportunity, but this is improbable. (40/1872). He further stated: "I was one of the people standing there as observers because we the committee members were just to stand and look at what was happening." (40/1882).

The state was constrained to argue that Mohapi was misled by accused No 11 into thinking that all would be peaceful. The defence argued that we must accept these concessions by Mohapi while rejecting much of his other evidence. In our view neither approach is correct. Mohapi probably made these concessions to gloss over his own knowledge and actions in this affair. His evidence indicates that they made common cause with the mob, following it about town to seek out the properties of councillors and giving the attacks at least their tacit approval. Mohapi was correctly warned as an accomplice at the beginning of his evidence.

We hold the view that Mohapi was attempting to exonerate himself when he made the concessions relied upon by counsel for the defence and that not much reliance can be placed thereon.

That some of the members of the committee were not deeply involved is evident from the fact that Balfour, the chairman, did not turn up either at the meeting of 26 August or the march of 3 September and that Mohapi the vice-chairman came late at the meeting of 26 August and did not know the relationship between the committee and the VCA and did not play any leading role on 3 September. The pivot of the resistance against the rent increase in Boipatong was accused No 11.

Accused No 11 attempted to support his evidence that he was a man of peace by reference to a copy of a letter allegedly written by Sotsu to the Sowetan (exh AT.8) which was found in his possession. It calls for unity amongst the oppressed as the UDF and the Black Consciousness Organisations all have one aim: Complete freedom from White domination. They should all work together on the basis of the Freedom Charter. An example is Zimbabwe where two parties joined hands to fight their common enemy, which was then defeated. He called on the Black Consciousness camp to join forces with the UDF "and fight our common enemy once and for all through peaceful means at our disposal".

Accused No 11 testified that he had been handed this copy by Sotsu in August 1984 in order that he might be informed and that he agreed with its contents. We have only accused No 11's word for this and he was a wholly untrustworthy witness. It may well be that the



letter dates from 1983 which was the time when there was much debate about the division in the ranks of the Blacks. The letter is also somewhat ambivalent holding up as an example a revolutionary victory but ending with a reference to peaceful means. The last sentence had to be inserted to have any chance of publication but the gravamen is unity like the revolutionary Patriotic Front. This letter does not support accused No 11. He was not its author.

We find that accused No 11 was a leader of the youth in Boipatong and the de facto leader of the Boipatong Residents' Committee, a committee of the VCA. He worked in close association with Esau Raditsela in organising the stay-away and march. He knew the stay-away could only be effective if enforced by violence. He knew that the march would be illegal and that it would lead to violence. His aim was to bring about the resignation of the Lekoa town council or at least the repeal of the rent increase. He encouraged others to participate.

Consequently he is found guilty of contravening section 54(1)(c)(ii) and (iv) read with section 54(8) of the Internal Security Act 74 of 1982 read with section 84(1)(f) of Act 32 of 1961, namely the crime of terrorism.

ACCUSED NO 12 (MKHAMBHI AMOS MALINDI) WAS DISCHARGED AT THE END OF THE STATE CASE.

## **DELMAS TREASON TRIAL 1985-1989**

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